

APR 24 2015

David J. Bradley, Clerk of Court

A091 (Rev. 8/01) Criminal Complaint

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA

V.

**Eleuterio Cardoza-Vela
&Panchita Hernandez-Ybarra**

CRIMINAL COMPLAINT

Case Number: **C.15-485M**

I, the undersigned complainant state that the following is true and correct to the best of my knowledge and belief. On or about 4/23/2015 in Brooks County, in the

(Date)

Southern District of Texas defendant(s), **Eleuterio Cardoza-Vela
&Panchita Hernandez-**

each aiding, abetting and assisting one another, did knowingly or in a reckless disregard of the fact that an alien had come to, entered, or remained in the United States in violation of law, transport, or move or attempt to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law

in violation of Title 8 United States Code, Section(s) 1324.
I further state that I am a(n) Border Patrol Agent and that this complaint is based on the following facts:

Official Title

See Attached Affidavit of U.S. Border Patrol Agent

Marvin Williams

Continued on the attached sheet and made a part of this complaint:

☒ Yes☐ No

Signature of Complainant

Marvin Williams

Printed Name of Complainant

Sworn to before me and signed in my presence,
and probable cause found on:

April 24, 2015

Date

Jason B. Libby, U.S. Magistrate Judge

Name and Title of Judicial Officer

at

Corpus Christi, Texas

City and State

Signature of Judicial Officer

AFFIDAVIT

The information contained in this report/affidavit is based upon my personal participation in the investigation, which included, but is not limited to information related to me by other agents and officers participating in the investigation.

On April 23, 2015, Eleuterio CARDOZA-Vela Jr and Panchita HERNANDEZ-Ybarra were arrested at the United States Border Patrol Checkpoint in Falfurrias, Texas for attempting to smuggle two undocumented aliens from Mexico. One of which is a juvenile, who will be identified as I.G.C. in this affidavit.

On April 23, 2015, Border Patrol Agent (BPA) Ryan Andaur was performing primary inspection duties at the U.S. Border Patrol Checkpoint located on Highway 281 in Encino, Texas. At approximately 11:30 AM a white Freightliner Tractor and trailer bearing Indiana License Plate: 2273047 entered the primary inspection lane.

BPA Andaur observed the vehicle was occupied by the driver, later identified as Eleuterio CARDOZA-Vela Jr. BPA Andaur asked CARDOZA-Vela if he was traveling alone in the vehicle and CARDOZA-Vela stated he wasn't. CARDOZA-Vela then stated his wife was with him. BPA Andaur asked CARDOZA-Vela if he would allow him to look in the cab of the truck to verify this statement about the number of occupants and finish an immigration inspection. CARDOZA-Vela agreed and gave consent.

BPA Andaur looked towards the sleeper area of the truck and observed a woman laying down on the bed. This woman was later identified as Panchita HERNANDEZ-Ybarra. BPA Andaur found it odd she didn't come to the front of the truck for the inspection. BPA Andaur also found it odd that it appeared as if HERNANDEZ-Ybarra was posing while lying on the bed. BPA Andaur noted the position in which HERNANDEZ-Ybarra was lying down did not seem natural and appeared staged. BPA Andaur asked HERNANDEZ-Ybarra if she was a United States citizen and HERNANDEZ-Ybarra replied she was.

From prior experience with tractor trucks BPA Andaur knew they often have built in compartments under the bed used for storage. Because of the way HERNANDEZ-Ybarra was lying on the bed, BPA Andaur asked HERNANDEZ-Ybarra if she could lift the bed. BPA Andaur did this so he could see underneath into the compartment area. HERNANDEZ-Ybarra agreed and stood up to lift the bed, however instead of lifting the lid of the compartment area, HERNANDEZ-Ybarra only lifted up the mattress. BPA Andaur asked HERNANDEZ-Ybarra again to lift the lid of the compartment so that BPA Andaur could see inside. HERNANDEZ-Ybarra stated to BPA Andaur that it doesn't open and she doesn't know how to open it. At that point CARDOZA-Vela began to tell BPA

Andaur the lid doesn't open and it was sealed shut. At that point BPA Andaur decided to refer the vehicle to secondary inspection to check underneath the bed.

When the vehicle arrived in secondary inspection Border Patrol Agents observed two subjects exit the truck and attempt to run into the nearby brush before. BPA James Pawloski apprehended the subjects quickly. Subjects were identified as Martin CARLOS-Lopez and I.G.C., both being citizens of Mexico whom are present in the United States illegally.

The driver Eleuterio CARDOZA-Vela was identified as a Mexican citizen with a Legal Permanent Resident Card and Panchita HERNANDEZ-Ybarra was identified as a United States citizen.

At that time all subjects were placed under arrested and escorted into the U.S. Border Patrol facility for further processing.

PRINCIPAL STATEMENTS:

BPA Andaur read Eleuterio CARDOZA-Vela Jr his rights as per CBP form I-214 NOTICE AS TO RIGHTS. CARDOZA-Vela refused to answer any questions and refused to sign the acknowledgement portion of the form. At that time CARDOZA-Vela requested representation of counsel.

BPA Andaur read Panchita HERNANDEZ-Ybarra her rights as per CBP form I-214 NOTICE AS TO RIGHTS. HERNANDEZ-Ybarra waived her right to representation and was willing to give a statement without speaking to counsel or having counsel present. HERNANDEZ-Ybarra gave the following statement:

HERNANDEZ-Ybarra stated she came down to the Rio Grande Valley with her boyfriend (CARDOZA-Vela) whom she met a week ago. HERNANDEZ-Ybarra claimed they left Waco, Texas a few days ago stopping at a few Walmart's along the way to either load or unload. HERNANDEZ-Ybarra stated she was asleep most of the time and CARDOZA-Vela woke her up today in Edinburg, Texas. When asked about the undocumented aliens, HERNANDEZ-Ybarra claimed to have had no knowledge of them being inside of the tractor. When asked why she didn't lift the compartment under the sleeper area of the tractor, HERNANDEZ-Ybarra continued to claim she didn't know how. Due to the fact HERNANDEZ-Ybarra continued to deny knowledge of the two undocumented aliens inside of the cab with her and CARDOZA-Vela, questioning ceased.

MATERIAL WITNESS STATEMENTS:

Martin CARLOS-Lopez was read his rights as per CBP form I-214 NOTICE AS TO RIGHTS. CARLOS-Lopez waived his rights and provided the following statement:

CARLOS-Lopez stated he and his nephew illegally entered the United States by crossing the Rio Grande River near Reynosa, Mexico. CARLOS-Lopez said after crossing they were taken to a house where they were kept for almost a month. CARLOS-Lopez stated on April 23, 2015 at about 10 A.M. the smuggler took them from the house in an SUV. CARLOS-Lopez stated the smuggler drove them outside the city limits into a rural area where they met with a man and women driving a white tractor and trailer. CARLOS-Lopez said during the meeting he could overhear the smuggler and the driver of the tractor trailer discussing payment arrangements. CARLOS-Lopez identified Eleuterio CARDOZA-Vela as the driver of the tractor truck and Panchita HERNANDEZ-Ybarra as the woman travelling in the tractor truck with CARDOZA-Vela. CARLOS-Lopez stated when they arrived at the location with the tractor trailer CARDOZA-Vela and the HERNANDEZ-Ybarra instructed them to get into the tractor truck and to lay down inside the compartment underneath the bed located in the sleeper area. CARLOS-Lopez stated both he and his nephew laid down in the small compartment under the bed and CARDOZA-Vela closed them inside. CARLOS-Lopez stated he and his nephew were inside the compartment for about three hours and during that time period they had little space to move, were not offered any water or food, and they were not checked on to see if they were ok. CARLOS-Lopez stated it was hard to breathe while inside the compartment and he was worried. CARLOS-Lopez stated at one point HERNANDEZ-Ybarra opened the bed and told them in Spanish to "SALGANSE!" (Get Out!). CARLOS-Lopez stated they climbed out of the compartment and ran out of the tractor truck into the nearby brush but they were apprehended quickly by Border Patrol Agents.

I.G.C. was read his rights as per CBP form I-214 NOTICE AS TO RIGHTS. I.G.C. waived his rights and provided the following statement:


I.G.C. stated he and his uncle entered the United States illegally by crossing the Rio Grande River near Reynosa, Mexico. I.G.C. stated after crossing the river the "coyote" took them to a house where they were kept for about a month. I.G.C. stated on April 23, 2015 the "coyote" arrived in the morning and picked them up in a SUV. I.G.C. stated they traveled in the SUV for just a short time until meeting up with a man and a woman who were in a tractor trailer. I.G.C. stated the area where they met with the man and woman was rural and he didn't see any buildings. I.G.C. identified Eleuterio CARDOZA-Vela as the driver of the tractor truck and Panchita HERNANDEZ-Ybarra as the woman who was in the tractor truck with him. I.G.C. stated once meeting up with them, CARDOZA-Vela instructed them to get inside the tractor truck and lay down in the compartment area underneath the bed. I.G.C. stated he and his uncle laid down in the compartment and CARDOZA-Vela closed it shut on them. I.G.C. stated he wasn't afraid while inside the compartment but he wouldn't be able to get out without them opening

the compartment. I.G.C. stated after traveling for a while CARDOZA-Vela lifted the bed and told them in Spanish "Bajase!" (Get Down!). I.G.C. stated after that he and his uncle ran out of the tractor truck and tried to run into the nearby brush but were caught quickly by Border Patrol Agents.

The U.S. Attorney's Office was contacted and prosecution of the case was accepted by Assistant United States Attorney Jeff Miller.

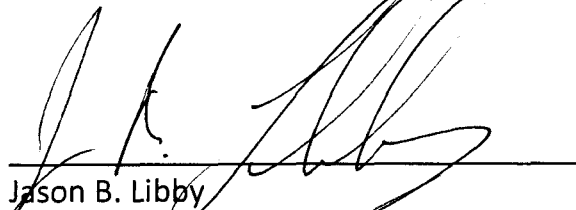
Eleuterio CARDOZA-Vela Jr and Panchita HERNANDEZ-Ybarra will be charged with 8 USC 1324 Alien Smuggling and will be held pending appearances in U.S. Magistrate Court.

Martin CARLOS-Lopez and I.G.C. will be held as Material Witnesses.



Marvin Williams
Border Patrol Agent

Sworn to before me and probable cause found on this date, the 24th of April, 2015,



Jason B. Libby
United States Magistrate Judge